

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

ERNESTINE WELCH,

Plaintiff,

- v -

1:19-CV-846
(BKS/DJS)

BIO-REFERENCE LABORATORIES, INC., *et al.*,

Defendants.

DANIEL J. STEWART
United States Magistrate Judge

REPORT-RECOMMENDATION and ORDER¹

The Clerk of the Court has sent to the undersigned for review a Motion for Leave to Proceed *In Forma Pauperis* (“IFP”) filed by *pro se* Plaintiff Ernestine Welch. Dkt. No. 2, IFP App. Based upon the information provided in Plaintiff’s Motion, it is unclear whether Plaintiff has the ability to pre-pay the filing fee required to maintain this action. In particular, Plaintiff’s Motion reflects that she received worker’s compensation payments in the amount of \$30,000 in March of 2019, but that she has only \$50 in cash or in a checking or savings account. *See* Dkt. No. 2 at pp. 1-2. The Court therefore recommends that the District Court require Plaintiff submit clarification as to whether or not she has \$30,000 from the worker’s compensation settlement.

¹ “A decision to deny or revoke IFP status [] is generally regarded as dispositive and thus falls outside [magistrate judges’] purview.” *Abreu v. Lira*, 2014 WL 4966911, at *2 n.1 (N.D.N.Y. Sept. 30, 2014) (citing *Kiobel v. Millson*, 592 F.3d 78, 92 (2d Cir. 2010)).

The Court recommends that the District Court dismiss Plaintiff's Complaint if she does not submit clarification within thirty (30) days of the filing date of this Report-Recommendation and Order.

Pursuant to 28 U.S.C. § 636(b)(1), the parties have fourteen (14)² days within which to file written objections to the foregoing report. Such objections shall be filed with the Clerk of the Court. **FAILURE TO OBJECT TO THIS REPORT WITHIN FOURTEEN (14) DAYS WILL PRECLUDE APPELLATE REVIEW.** *Roldan v. Racette*, 984 F.2d 85, 89 (2d Cir. 1993) (citing *Small v. Sec'y of Health and Human Servs.*, 892 F.2d 15 (2d Cir. 1989)); *see also* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72 & 6(a).

IT IS SO ORDERED.

Date: August 15, 2019
Albany, New York



Daniel J. Stewart
U.S. Magistrate Judge

² If you are proceeding *pro se* and are served with this Order by mail, three additional days will be added to the fourteen-day period, meaning that you have seventeen days from the date the order was mailed to you to serve and file objections. FED. R. CIV. P. 6(d). If the last day of that prescribed period falls on a Saturday, Sunday, or legal holiday, then the deadline is extended until the end of the next day that is not a Saturday, Sunday, or legal holiday. FED. R. CIV. P. 6(a)(1)(C).